

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FILED
U.S. DISTRICT COURT

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S.D. OF N.Y.W.P.

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MALIBU MEDIA, LLC,

Plaintiff,

vs.

JOHN DOE subscriber assigned IP address
96.250.97.177,

Defendant.

Civil Action No. _____

**COMPLAINT – ACTION FOR
DAMAGES FOR PROPERTY
RIGHTS INFRINGEMENT**

14 CIV. 8899

JUDGMENT

Plaintiff, Malibu Media, LLC, sues Defendant John Doe subscriber assigned IP address 96.250.97.177, and alleges:

Introduction

1. This matter arises under the United States Copyright Act of 1976, as amended, 17 U.S.C. §§ 101 et seq. (the “Copyright Act”).
2. Defendant is a persistent online infringer of Plaintiff’s copyrights. Indeed, Defendant’s IP address as set forth on Exhibit A was used to illegally distribute each of the copyrighted movies set forth on Exhibit B.

3. Plaintiff is the registered owner of the copyrights set forth on Exhibit B (the “Copyrights-in-Suit”).

Jurisdiction And Venue

4. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 (federal question); and 28 U.S.C. § 1338 (patents, copyrights, trademarks and unfair competition).

5. Plaintiff used proven IP address geolocation technology which has consistently worked in similar cases to ensure that the Defendant's acts of copyright infringement occurred using an Internet Protocol address ("IP address") traced to a physical address located within this District, and therefore this Court has personal jurisdiction over the Defendant because (i) Defendant committed the tortious conduct alleged in this Complaint in this State, and (ii) Defendant resides in this State and/or (iii) Defendant has engaged in substantial and not isolated business activity in this State.

6. Based upon experience filing over 1,000 cases the geolocation technology used by Plaintiff has proven to be accurate to the District level in over 99% of the cases.

7. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and (c), because: (i) a substantial part of the events or omissions giving rise to the claims occurred in this District; and, (ii) the Defendant resides (and therefore can be found) in this District and resides in this State; additionally, venue is proper in this District pursuant 28 U.S.C. § 1400(a) (venue for copyright cases) because Defendant or Defendant's agent resides or may be found in this District.

Parties

8. Plaintiff, Malibu Media, LLC, (d/b/a "X-Art.com") is a limited liability company organized and existing under the laws of the State of California and has its principal place of business located at 409 W. Olympic Blvd., Suite 501, Los Angeles, CA, 90015.

9. Plaintiff only knows Defendant by his, her or its IP Address. Defendant's IP address is set forth on Exhibit A.

10. Defendant's Internet Service Provider can identify the Defendant.

Factual Background

I. Defendant Used the BitTorrent File Distribution Network To Infringe Plaintiff's Copyrights

11. The BitTorrent file distribution network ("BitTorrent") is one of the most common peer-to-peer file sharing systems used for distributing large amounts of data, including, but not limited to, digital movie files.

12. BitTorrent's popularity stems from the ability of users to directly interact with each other in order to distribute a large file without creating a heavy load on any individual source computer and/or network. The methodology of BitTorrent allows users to interact directly with each other, thus avoiding the need for intermediary host websites which are subject to DMCA take down notices and potential regulatory enforcement actions.

13. In order to distribute a large file, the BitTorrent protocol breaks a file into many small pieces called bits. Users then exchange these small bits among each other instead of attempting to distribute a much larger digital file.

14. After the infringer receives all of the bits of a digital media file, the infringer's BitTorrent client software reassembles the bits so that the file may be opened and utilized.

15. Each bit of a BitTorrent file is assigned a unique cryptographic hash value.

16. The cryptographic hash value of the bit ("bit hash") acts as that bit's unique digital fingerprint. Every digital file has one single possible cryptographic hash value correlating to it. The BitTorrent protocol utilizes cryptographic hash values to ensure each bit is properly routed amongst BitTorrent users as they engage in file sharing.

17. The entirety of the digital media file also has a unique cryptographic hash value ("file hash"), which acts as a digital fingerprint identifying the digital media file (e.g. a movie). Once infringers complete downloading all bits which comprise a digital media file, the

BitTorrent software uses the file hash to determine that the file is complete and accurate.

18. Plaintiff's investigator, IPP International UG, established a direct TCP/IP connection with the Defendant's IP address as set forth on Exhibit A.

19. IPP International UG downloaded from Defendant one or more bits of each of the digital movie files identified by the file hashes on Exhibit A.

20. Defendant downloaded, copied, and distributed a complete copy of Plaintiff's movies without authorization as enumerated on Exhibit A.

21. Each of the cryptographic file hashes as set forth on Exhibit A correlates to a copyrighted movie owned by Plaintiff as identified on Exhibit B.

22. IPP International UG downloaded from Defendant one or more bits of each file hash listed on Exhibit A. IPP International UG further downloaded a full copy of each file hash from the BitTorrent file distribution network and confirmed through independent calculation that the file hash matched what is listed on Exhibit A. IPP International UG then verified that the digital media file correlating to each file hash listed on Exhibit A contained a copy of a movie which is identical (or alternatively, strikingly similar or substantially similar) to the movie associated with that file hash on Exhibit A. At no time did IPP International UG upload Plaintiff's copyrighted content to any other BitTorrent user.

23. IPP International UG connected, over a course of time, with Defendant's IP address for each hash value as listed on Exhibit A. The most recent TCP/IP connection between IPP and the Defendant's IP address for each file hash value listed on Exhibit A is included within the column labeled Hit Date UTC. UTC refers to Universal Time which is utilized for air traffic control as well as for computer forensic purposes.

24. An overview of the Copyrights-in-Suit, including each hit date, date of first

publication, registration date, and registration number issued by the United States Copyright Office is set forth on Exhibit B.

25. Plaintiff's evidence establishes that Defendant is a habitual and persistent BitTorrent user and copyright infringer.

Miscellaneous

26. All conditions precedent to bringing this action have occurred or been waived.

27. Plaintiff has retained counsel and is obligated to pay said counsel a reasonable fee for its services.

COUNT I
Direct Infringement Against Defendant

28. The allegations contained in paragraphs 1-27 are hereby re-alleged as if fully set forth herein.

29. Plaintiff is the owner of the Copyrights-in-Suit, as outlined in Exhibit B, each of which covers an original work of authorship.

30. By using BitTorrent, Defendant copied and distributed the constituent elements of each of the original works covered by the Copyrights-in-Suit.

31. Plaintiff did not authorize, permit or consent to Defendant's distribution of its works.

32. As a result of the foregoing, Defendant violated Plaintiff's exclusive right to:

(A) Reproduce the works in copies, in violation of 17 U.S.C. §§ 106(1) and 501;

(B) Redistribute copies of the works to the public by sale or other transfer of ownership, or by rental, lease or lending, in violation of 17 U.S.C. §§ 106(3) and 501;

(C) Perform the copyrighted works, in violation of 17 U.S.C. §§ 106(4) and 501, by showing the works' images in any sequence and/or by making the sounds accompanying the

works audible and transmitting said performance of the works, by means of a device or process, to members of the public capable of receiving the display (as set forth in 17 U.S.C. § 101's definitions of "perform" and "publically" perform); and

(D) Display the copyrighted works, in violation of 17 U.S.C. §§ 106(5) and 501, by showing individual images of the works nonsequentially and transmitting said display of the works by means of a device or process to members of the public capable of receiving the display (as set forth in 17 U.S.C. § 101's definition of "publically" display).

33. Defendant's infringements were committed "willfully" within the meaning of 17 U.S.C. § 504(c)(2).

WHEREFORE, Plaintiff respectfully requests that the Court:

(A) Permanently enjoin Defendant and all other persons who are in active concert or participation with Defendant from continuing to infringe Plaintiff's copyrighted works;

(B) Order that Defendant delete and permanently remove the digital media files relating to Plaintiff's works from each of the computers under Defendant's possession, custody or control;

(C) Order that Defendant delete and permanently remove the infringing copies of the works Defendant has on computers under Defendant's possession, custody or control;

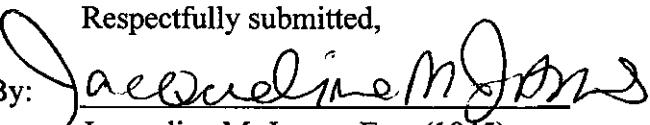
(D) Award Plaintiff statutory damages per infringed Work pursuant to 17 U.S.C. § 504-(a) and (c);

(E) Award Plaintiff its reasonable attorneys' fees and costs pursuant to 17 U.S.C. § 505; and

(F) Grant Plaintiff any other and further relief this Court deems just and proper.

DEMAND FOR A JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable.

Respectfully submitted,
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Attorneys for Plaintiff

File Hashes for IP Address 96.250.97.177

ISP: Verizon FiOS

Physical Location: Spring Valley, NY

Hit Date UTC	File Hash	Title
09/28/2014 22:36:29	3539A3F1FAF8252E22BDC59783BAABDC381099B1	Nice And Slow
09/28/2014 22:05:41	4DAE1F79BDC6E97CA750ECCAB188554D9F397709	Sparks
08/21/2014 16:30:57	712716B76EC21B824E2618F51C9B1FE74B02D334	Summertime Lunch
08/21/2014 16:27:30	43A721E85E795E2221C7BA099189E324C1731319	Elevated Erotica
08/21/2014 16:21:05	6E3CCB0E34500E4685F423E764D3C2D904DF933E	Saturday Eve
08/21/2014 16:16:12	A8BA3DBE504C7F2259875CBFC105BC69F06E4C19	Be With Me
08/21/2014 16:16:09	A422699064F70D9733725CE8FB9E4F3FD266EAC8	A Dream Of You
08/11/2014 20:10:04	AD0C4C5920060B48428FC980410059E212DD5147	In the Blind
08/11/2014 19:47:50	AE39BB805BC77C2091586ABBFF9969875054EC6C0	For Your Eyes Only
08/11/2014 19:43:16	760D6AE59B90648DCDC5A3C1B2A3F4C758636449	Any And All For You
08/03/2014 14:06:42	4DD0F5E9BA22CCE4327150DF14E70B249068F498	Precious Metal
08/02/2014 17:05:41	61C6B894FC9D577FC3C630535621FF80874FF77A	Yours Forever
08/02/2014 16:55:30	8ED6EC1EC544C191ADFBEC99900DD2FE333EAB98	In The Dark
08/02/2014 16:55:26	46534E73B0D16742309BCAF6FB5D8F8DCEF5EC95	Rock Me Baby
08/02/2014 16:31:38	AD595D864F4D440B94B01EE3D4C0ED9E6F16517A	Sweet Awakening
08/02/2014 16:18:11	219F3C676427D47A0AFD296992A3DBEBEC81068C	Highrise Rendezvous
06/25/2014 17:52:24	6E7102974A414617BB8B253010038E86E3C4B93D	Coming Late
06/25/2014 17:42:36	A353113B655D6A34FE06EC7E71D99BA06C2AC1BB	Dancing Romance
06/25/2014 17:11:51	A7655F94C8A103E73DC6552897CCF623A3E88D7D	Lovers Way
06/25/2014 17:00:51	B9D4CE50042DC4337CE6E769C4D4FE63157C7BD6	Enjoy My Backdoor
06/09/2014 23:17:44	E78047F304EA7B1BE0A090AD6319FDC6288B3800	Just Watch Part 2
06/09/2014 22:46:34	66240EA4FE9970A3BE7B99E9A97EE10D833DF60F	Hot Orgasm

EXHIBIT A

Hit Date UTC	File Hash	Title
06/02/2014 16:27:54	17E9C7AAB73C2845D20844533DD246E8A8A81F03	From Three to Four Part 2
05/27/2014 13:46:17	3C7DD8FEFFE1AF59D6D826F33A824570776B024D	Brazilian Love Affair
05/27/2014 01:54:39	AE64E35AE7E75AE973222BA3BFE1C4F7388FD915	Perfect Timing
05/27/2014 01:52:41	06AC7448218B6AC5F63B777630398DDCCD763FEC	Rope Priority
05/27/2014 01:51:37	BE8C24E5306BD4C706C60ADD1130FD78B9970E83	Tantric Massage
05/27/2014 01:40:19	6EC4EAC1DF8D6C9F6A7C69FB03130A8273DBACF2	Epic Love

Total Statutory Claims Against Defendant: 28

EXHIBIT A

SNY30

Copyrights-In-Suit for IP Address 96.250.97.177

ISP: Verizon FiOS
Location: Spring Valley, NY

Title	Registration Number	Date of First Publication	Registration Date	Most Recent Hit UTC
A Dream Of You	PA0001909516	08/15/2014	08/26/2014	08/21/2014
Any And All For You	PA0001908677	08/02/2014	08/11/2014	08/11/2014
Be With Me	PA0001907574	07/21/2014	07/25/2014	08/21/2014
Brazilian Love Affair	PA0001895095	05/03/2014	05/12/2014	05/27/2014
Coming Late	PA0001904286	06/19/2014	06/24/2014	06/25/2014
Dancing Romance	PA0001903915	06/07/2014	06/12/2014	06/25/2014
Elevated Erotica	PA0001909513	08/17/2014	08/26/2014	08/21/2014
Enjoy My Backdoor	PA0001904149	06/13/2014	06/19/2014	06/25/2014
Epic Love	PA0001898091	05/25/2014	06/06/2014	05/27/2014
For Your Eyes Only	PA0001909485	08/11/2014	08/19/2014	08/11/2014
From Three to Four Part 2	PA0001902970	06/01/2014	06/06/2014	06/02/2014
Hightrise Rendezvous	PA0001908213	07/25/2014	07/31/2014	08/02/2014
Hot Orgasm	PA0001903922	06/03/2014	06/12/2014	06/09/2014
In the Blind	PA0001909487	08/08/2014	08/20/2014	08/11/2014
In The Dark	PA0001908451	07/31/2014	08/04/2014	08/02/2014
Just Watch Part 2	PA0001902964	05/27/2014	06/06/2014	06/09/2014
Lovers Way	PA0001905141	06/21/2014	07/02/2014	06/25/2014
Nice And Slow	PA0001916038	09/28/2014	10/06/2014	09/28/2014
Perfect Timing	PA0001895848	05/07/2014	05/16/2014	05/27/2014
Precious Metal	PA0001908248	07/27/2014	07/31/2014	08/03/2014
Rock Me Baby	PA0001907592	07/19/2014	07/25/2014	08/02/2014

EXHIBIT B

Title	Registration Number	Date of First Publication	Registration Date	Most Recent Hit UTC
Rope Priority	PA0001895760	05/11/2014	05/16/2014	05/27/2014
Saturday Eve	PA0001909511	08/18/2014	08/26/2014	08/21/2014
Sparks	PA0001916039	09/24/2014	10/06/2014	09/28/2014
Summertime Lunch	PA0001907078	07/11/2014	07/25/2014	08/21/2014
Sweet Awakening	PA0001907077	07/09/2014	07/27/2014	08/02/2014
Tantric Massage	PA0001892180	04/25/2014	04/29/2014	05/27/2014
Yours Forever	PA0001907573	07/15/2014	07/25/2014	08/02/2014

Total Malibu Media, LLC Copyrights Infringed: 28